

From: Dick Pool [<mailto:pool94549@sbcglobal.net>]

Sent: Thursday, November 18, 2010 9:56 PM

To: Grindstaff, Joe@DeltaCouncil

Subject: The BDCP and Salmon Recovery

Joe:

For your info. Today Zeke Grader and I released the attached letter on the Washington DC BDCP meeting last week. I don't believe Phil got one. We did not have his email.

Regards,

Dick Pool

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15 November 2010

Mr. David J. Hayes
Deputy Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

RE: Meeting on Bay-Delta Conservation Plan

Dear Deputy Secretary Hayes:

We want to thank you and Secretary Salazar for your kind invitation allowing the two of us, representing the fisheries, to participate in last Wednesday's meeting on the progress and problems of the Bay Delta Conservation Plan (BDCP).

As we mentioned, fishing representation, along with Delta counties, has been excluded to date, from the Bay Delta Conservation Plan process despite the fact that fishing and Delta counties have the greatest stake in the protection and restoration of the San Francisco Bay-Sacramento/San Joaquin Delta Estuary than any other stakeholders. Your invitation brought us into the process for the first time.

We want to assure you and the other federal agencies that we fully support the Legislature's "co-equal" goals it set out last year for (1) the restoration of the Delta estuary (actually it's the Bay-Delta since it's all one ecosystem, extending from the Sierra-fed rivers to the Gulf of the Farallones), its fish and natural resources and (2) a reliable water system. The problem many of us have had with the direction of the BDCP, and even parts of the Delta Vision process, is the notion that the same level of diversions or additional levels of Delta diversion would be possible and still restore the Delta and its resources. Such a notion flies in the face of science that has been around for the past two decades and reconfirmed in at least three separate reports during the last year. Co-equal is not equal for the Delta if it entails current or additional levels of fresh water diversion.

We were taken back at the outburst in Wednesday's meeting of at least one water contractor indicating their expenditure of millions in studies should give them rights to more water. The implication was that money and politics rather than science should be the determining factor in allocating water supplies. The science says clearly additional diversions will be deadly for the Delta. Water engineers may not understand this, but biologists clearly do, that an estuary - which

the Bay-Delta is, it's not a reservoir – requires freshwater inflow that then mixes with tidal flow to create the rich brackish water that provides spawning, nursery and residence habitat for so many important species, including the economically important fall-run king salmon, along with winter and spring-run chinook, and steelhead. Studies presented to California's State Water Resources Control Board hearings in the 1980's indicated removal of more than 30 percent on average of an estuary's freshwater flow resulted in serious and permanent damage. It should be no surprise therefore that plans to remove 50 percent or more of the Delta's freshwater inflow - depending on the water year - was going to be problematic and violate any goal of co-equality.

A Little History

Some history on the peripheral canal, or some variation thereof, is useful in providing context to the whole debate on protecting the Delta and its resources, and the direction now of the BDCP.

Fishing groups, such as ours, are very familiar with the peripheral canal, or "isolated facility" as its now being called. In the 1960's it was fishing organizations that called on Governor Pat Brown to consider a peripheral canal for delivering the then unfinished State Water Project's yield south of the Delta to southern California. This was in lieu of a series of proposed barriers across the Delta that would have separated the Delta from the Bay and destroyed the Central Valley salmon runs, much as Friant Dam operations destroyed San Joaquin River salmon runs above the confluence of the Merced River.

That early fishery support for a canal came in the mid-1960's. In addition to providing an alternative to barriers that would have destroyed the estuary and its fish, a canal around the Delta was intended to address the problem of reverse flows in the San Joaquin River. The vexing problem for most at the time was how to screen a pumping facility on the Sacramento River to protect the fish – such a screen design was never developed. Keep in mind this was all before Governor Reagan vetoed the Dos Rios project on the Eel River, effectively limiting the State Water Project's yield to that supplied by Oroville Dam on the Feather River. It was also prior to passage of NEPA, CWA and the ESA, which all acted to change how we viewed the environment. And, it was long before many of us in the fisheries fully appreciated the workings of an estuary and the importance of freshwater inflow during critical times of the year for estuarine health.

By the early 1980's it had become clear to fishing groups that a peripheral canal and additional diversions from the Delta were a bad idea. Most in the state felt the same - at least about a peripheral canal - and it was rejected in a June 1982 State-wide referendum.

In the mid-1980's the State Water Board conducted its extensive quasi-judicial scientific hearings on the flow needs for the Bay-Delta estuary. Those culminated in the preparation of a draft order in October 1988 calling for restoration of approximately 1.6 million acre-feet of flow to the estuary. Thus, 22 years ago, there was recognition that overdrafting of the estuary was occurring. South of Delta water interests and Governor Deukmejian acted to quash that draft and nothing came of it, although it was the basis for the 800,000 af of flow (the federal "half" of the 1.6 million af) that was supposed to be provided for fish and wildlife in the Central Valley Project Improvement Act of 1992. The draft order, although never implemented, nevertheless was based on sound science and extensive research.

A second round of hearings by the State Board on Delta flow requirements was similarly quashed by Governor Wilson on April Fools Day 1993. The efforts by past state administrations and many water districts to try to hide or ignore the fact the Delta was being overdrafted, and that increases in those levels of diversions would do even greater damage, cannot be concealed forever. The great disservice done subsequently by CalFed was its decision to ignore flow. So now, after billions of dollars spent by CalFed, there is little to show in the way of improvements to the Delta from that State-Federal program.

The earlier work of the State Water Resources Control Board - finding that more, not less, freshwater inflow is needed for the estuary – has been confirmed by (1) the National Research Council, (2) the flow criteria recently adopted by the State Board and (3) the findings by federal fishery biologists. This was hardly surprising or a startling revelation or “junk science” (much of this has gone through multiple peer-reviews). In the case of the Water Board study, the flow conclusions were supported unanimously in a peer review by 15 nationally recognized scientists. Water contractors arguing now that they were somehow blindsided by what the biologists have said are either disingenuous or dumb. The only thing they may have been blindsided by was the fact they could no longer use their access to political power to quash the science as they did in 1988, 1993 and with the 2004 OCAP findings of “no jeopardy” to salmon and smelt from additional pumping.

Other Factors Affecting Delta Ecosystem Recovery

Those of us in the fisheries readily acknowledge the presence of other factors affecting the health of the estuary and the recovery of our fisheries. Water quality, invasive species, predation, and available habitat (e.g., shallow water) all affect fish recovery. All of these, however, are affected by flow levels and timing; flow, thus is fundamental to recovery. Without it, actions addressing these other factors will be insignificant, if not ineffective. Flow is the foundation. Even timing of releases is dependent on available flow.

Fish Recovery

We are concerned as well the BDCP has set the bar too low for fish recovery to the extent it could happen given the water contractors expectations of maintaining or increasing current levels of diversions. An HCP requires recovery of a species, not simply preventing extinction. Moreover, in the case of salmon, the BDCP cannot ignore other State and Federal law – specifically, California’s state policy to double salmon populations and the CVPIA’s mandate for the doubling of Central Valley anadromous fish populations. Nothing in the BDCP can be allowed to thwart the doubling goals and ideally should facilitate them. To date, we have seen little or no consideration by the BDCP of the State and Federal doubling statutes.

Getting to Co-Equal

Fishery interests are not insensitive to California’s other water needs – for farms, municipalities and other industries. To that end, we are willing to work for and support development of new water supplies that are both reliable and meet legitimate needs. It should be noted that the Delta - even if fish or the health of the estuary were not an issue – is not a reliable source in the long term. A major earthquake could destroy or render useless an isolated facility, while climate change will inevitably mean more erratic weather patterns including long-term droughts affecting the amount of water available for export directly from the Delta, or from its tributaries.

Better alternatives, we believe, exist for providing California its needed water supplies – more reliably and without destroying the Delta or its fisheries. This can only be achieved we believe by beginning immediately to reduce the State’s overall reliance on the Delta for its water source. Certainly some level of Delta exports can be accommodated – taking water that is surplus to the needs of the estuary and local water supply needs - but the Delta is vulnerable as a water supply in terms of a major earthquake (which could affect any “isolated facility”), sea level rise due to climate change, and an extended drought. Moving to reduced Delta reliance for water is something that needs doing now, not sometime off in the future.

Viable alternatives to reliance on Delta water have been identified in a number of different studies, including those from the Pacific Institute, the Environmental Water Caucus (“California Water Solutions Now”), the Natural Resources Defense Council (“Virtual River”), and even the Department of Water Resources’ advisory committee on reviewing the California Water Plan. These alternatives entail a combination of actions include: (1) increased water conservation/efficiency - where a number of opportunities still exist for both agriculture and municipalities, (2) water reuse/recycling - which can help to reduce the discharge of polluted waters into the State’s waterways; (3) groundwater recharge/storage/clean-up and management; (4) “green” (i.e., energy efficient, no entrainment intakes, no toxic discharge) desalination (both groundwater and seawater), and (5) taking problem lands out of irrigated agriculture and converting them to other economic uses such as solar generation farms.

There is, thus, an alternative to maintaining current or increased levels of diversions, meeting State policy to reduce reliance on Delta water, and still meet the co-equal goal of a stable water supply to meet reasonable State needs. This needs to be the preferred alternative for the BDCP, not an “isolated facility” or “dual conveyance” which could only be financed through increased diversions and thereby defeat both the purpose of the HCP as well as the State’s co-equal goal.

Working Together for an Effective BDCP

The two of us will attend Thursday’s meeting of the BDCP in Sacramento, although we are only allowed to participate as observers.

It is obvious to us that for the BDCP to move ahead consistent with the HCP provisions under the ESA, achieving the State’s co-equal goal, and complying with the Federal and State statutory provisions regarding salmon doubling, that a new direction is needed. To that end, we ask for the full engagement of Interior and your offices to help see this through. Indeed, the best course to us would be under the new State administration, for the Federal and State agencies to take control of the BDCP leadership from the water contractors, create a truly inclusive stakeholder process that will include fisheries and the Delta counties, and develop a HCP that meets the spirit and letter of State and Federal law for the recovery of the Bay-Delta estuary – California’s most important ecosystem – and its salmon and other natural resources.

Thank you again for you invitation to the meeting last week in Washington. We look forward to working with you and meeting with Secretary Salazar when he visits California in December.

Sincerely,



Dick Pool, President
Pro-Troll, Inc., and
Water4Fish



Zeke Grader, Executive Director
Pacific Coast Federation of
Fishermen's Associations

cc: Mr. Lester Snow, Secretary, California Resources Agency
 Ms. Letty Belin, Counselor to the Deputy Secretary
 Ms. Monica Medina, National Oceanic & Atmospheric Administration
 Mr. David Nawai, Department of the Interior
 Mr. Michael Boots, White House Council on Environmental Quality
 Mr. Peter Silva, U.S. Environmental Protection Agency
 Mr. Mike Connor, U.S. Bureau of Reclamation
 Ms. Eileen Sobeck, Department of the Interior – Fish, Wildlife & Parks
 Mr. Ren Lohefener, U.S. Fish & Wildlife Service
 Mr. Don Glaser, U.S. Bureau of Reclamation, Sacramento Office
 Mr. Will Stelle, NW Regional Director, National Marine Fisheries Service
 Mr. Rod McInnis, SW Regional Director, National Marine Fisheries Service
 Mr. John McCamman, Director, California Department of Fish & Game
 Mr. Mark Cowin, Director, California Department of Water Resources
 The Honorable Fran Pavley, Chair, California Senate Natural Resources & Water Committee
 The Honorable Jared Huffman, Chair, CA Assembly Water, Parks & Wildlife Committee